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May 3, 1996

**Office of the Secretary**  
**Federal Communications Commission**  
1919 M Street N.W., Room 222  
Washington, D.C. 20554

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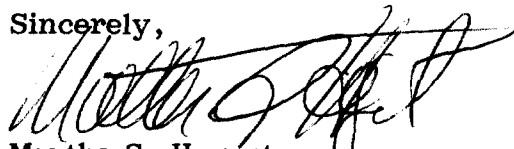
**RE: CC Docket No. 96-61**

Dear Secretary:

Enclosed please find the original and eleven (11) copies of **Comments of the Missouri Office of the Public Counsel** in the above-referenced docket. Please stamp the extra copy "filed" and return it in the enclosed self-addressed and prepaid envelope.

Thank you for your assistance in this matter.

Sincerely,



Martha S. Hogerty  
Missouri Public Counsel

MSH/bjr

Enclosures

cc: Janice Myles, Common Carrier Bureau  
International Transcription Services, Inc.

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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of: )  
)  
Policy and Rules Concerning the Interstate, )  
Interexchange Marketplace )  
)  
Implementation of Section 254(g) of the )  
Communications Act of 1934, as amended )

CC Docket No. 96-61

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**COMMENTS OF THE MISSOURI OFFICE OF THE PUBLIC COUNSEL**

In a Notice of Proposed Rule Making (NPR) released on March 25, 1996, the Federal Communications Commission (Commission) requested comments on a number of issues concerning interexchange carrier (IXC) regulation. The Missouri Office of the Public Counsel (Public Counsel) submits the following comments on these issues:

It is essential that the Commission adopt rules which create real benefits for consumers and that it recognizes that until effective competition exists, consumers must be protected from the effects of anti-competitive behavior and exercise of market power. The following comments are offered in response to CC Docket No. 96-61, Sections IV, V, and VI.

**SUMMARY**

1. The DOJ Merger Guidelines provide an appropriate method for defining the relevant product and relevant geographic market.

2. It would be premature to attempt to identify particular relevant product markets until the degree of separation and the influence of alternative communications providers are determined.
3. Definition of the relevant geographic market should be based on similarly positioned groups of consumers with respect to available providers' costs of provision and convenience of obtaining substitutable products. We suggest a local exchange area as the appropriate boundary.
4. Complete structural separation will promote the greatest level of competition. In the absence of complete separation, safeguards should be established with respect to limiting the exercise of market power.
5. We share the concerns identified by the PaOCA regarding: 1) enforcement of rate averaging; and 2) the impact of discounted or promotional offerings.

#### **Section IV - Defining Markets**

We agree that the merger guidelines should be used to define the relevant product and geographic market.

At this time, it is inappropriate to identify relative product markets for the following reasons:

1. The degree to which the RBOCs are allowed to provide interstate, interexchange services will affect the relevant product market with respect to product substitution and internal consumption.
2. Rapid deployment of technical innovation. For example, the level of e-mail and wireless usage, and consumers' options of the degree of substitutability of

these services for interstate, interexchange telecommunications, will affect the relevant product market.

3. The relevant product may also be affected by the degree to which retail interstate, interexchange services are bundled with regionally and locally offered retail services.

The type of service provided (point to point) is actually part of the definition of the relevant product. Defining the relevant geographic market involves identifying a region in which consumers purchase the product. The merger guidelines identify five factors regarding geographic substitutability. They relate to the perception of consumers and firms about the convenience and cost of obtaining or providing service in a particular location. When distance or costs become prohibitive, the geographic boundaries are drawn. An appropriate geographic market would be based on local exchange boundaries.

The degree of structural separation that is imposed on the RBOCs will help to determine the concentration that exists in the relevant geographic market, in addition to the extent of bundling of retail services.

We disagree with the conclusion outlined in #51 on page 29. Defining a single national market and using the HHI as a measure of concentration would tend to underestimate the potential market power of firms that operate on a regional basis.

#### **Section V - Separation Requirements**

Complete structural separation will promote the greatest level of competition. In addition to internalizing identifiable cost savings, LECs entering the interstate, interexchange market have advantages with respect to customer information, brand

loyalty, previous customer contact, managerial expertise, name recognition, and other economies of scope.

In the event that complete separation does not occur, LECs providing interstate, interexchange services within their local exchange area should be regulated as dominant carriers. And for areas where they do not provide local exchange services, their degree of market power should be used to determine whether they are regulated as dominant or nondominant carriers.

RBOCs providing out of region interstate, interexchange services enjoy similar competitive advantages to LECs and should be regulated similarly.

#### **Section VI - Rate Averaging and Integration Requirements**

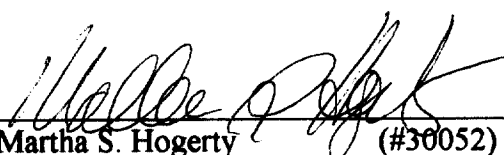
We agree that geographic rate averaging promotes a universal nationwide telecommunications network and distributes the benefits of competition to all consumers. It is not sufficient to simply require a certificate of compliance from interstate, interexchange telecommunications providers. At a minimum, a current price list should be submitted from all providers. Reasons for this include that price lists would: 1) be a public record accessible to ratepayers; 2) provide information; and 3) facilitate recourse. In addition, price lists can be used to ensure compliance with rate averaging and determining whether effective competition exists. We support development of on-line access to pricing information proposed by the Pennsylvania Office of Consumer Advocate (PaOCA).

With respect to NOPR at #72 and comments submitted by the PaOCA, volume and term discounts can be used as a surrogate for rate deaveraging. The degree of

advertising and marketing of discounted services tends to influence the number of “takers” in a particular area. Discounts and promotional offerings to target areas need to be addressed with respect to consumer protection.

Respectfully submitted,

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